

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:19 CV 44

MICHAEL S. DAVIS,

Plaintiff,

v.

QUENTIN MILLER, in his official capacity as
Sheriff of Buncombe County; **VAN DUNCAN**,
in his capacity as former Sheriff of
Buncombe County; **WESTERN SURETY**
COMPANY, as surety for the Sheriff;
CHARLES J. WILHELM, individually and in
his official capacity; **YASSER MIR, M.D.**,
individually and in his official capacity;
EVA FIELDS, N.P., individually and in her
official capacity; **TINA MILLER, LPN**,
individually and in her official capacity;
CHARLENE PARKER, individually and in her
official capacity; **SANDRA CANNON, RN**,
individually and in her official capacity;
and **SOUTHEAST CORRECTIONAL**
MEDICAL GROUP, P.L.L.C.,

Defendants.¹

ORDER

This matter is before the Court on Plaintiff's Motion for Voluntary Dismissal (Doc. 40), which requests an order allowing Plaintiff to voluntarily

¹ The caption has been amended to reflect that Defendant John Doe #1, individually and in his official capacity, was terminated on June 6, 2019. See (Doc. 39).

dismiss without prejudice this action as to Defendant Van Duncan, in his capacity as former Sheriff of Buncombe County, and Defendant Charles J. Wilhelm, both individually and in his official capacity.

It is unclear if the Motion is contested; while the Motion states that the parties have been unable to agree on a stipulated dismissal of Defendants Duncan and Wilhelm under Rule 41(a)(1)(ii), no specific information regarding consultation between counsel is included in the Motion regarding the position of Defendants on the specific relief requested. See LCvR 7.1(b). Similarly, no supporting brief has been provided, as required by LCvR 7.1(c). This information is particularly necessary in light of the pending Motion for Judgment on the Pleadings by Defendants Duncan, Wilhelm, and others. (Doc. 30).

Accordingly, Plaintiff's Motion for Voluntary Dismissal (Doc. 40) is **DENIED WITHOUT PREJUDICE.**

Signed: June 28, 2019



W. Carleton Metcalf
United States Magistrate Judge

